

PATENT

Attorney Docket No. BA-32448(1)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : BAKER et al.
Serial No. : 10/817,058
Filing Date : April 2, 2004
For : Method of Treating Cardiac Ischemia by Using Erythropoietin
Group Art Unit: 1653
Examiner : MAYER, Suzanne Marie
Confirmation No.: 2664

DECLARATION UNDER 37 C.F.R. §1.131

Sir:

We, John E. Baker, Ph.D., and Yang Shi, Ph.D., being the inventors and applicants in the above-identified patent application, declare and say as follows:

1. That on a date prior to July 10, 2002, Dr. John E. Baker, was involved in the conception of a method of increasing resistance of the heart to ischemia, as evidenced by attached **Exhibit A**. Exhibit A is a copy of a research proposal entitled "Erythropoietin, Nitric Oxide Synthase and Resistance to Myocardial Ischemia", by John E. Baker, Ph.D., dated 2001, which was initialed by Dr. Baker.
2. That on or about December 19, 2001, a study of formulations of erythropoietin (EPO) was conducted under our direction and supervision. This is evidenced at paragraphs 4 and 5d of attached **Exhibit B**, which is a copy of the Discovery Record and Report entitled "Cardioprotection by Erythropoietin" that we wrote, had witnessed, and submitted to the Medical College of Wisconsin (MCW) Research Foundation on May 9, 2002. As set forth in the "Brief description of the discovery" attached to Exhibit B, in the study(ies), hearts isolated from rabbits were perfused with a range of concentrations of EPO prior to a global ischemic insult followed by reperfusion. The results of the study(ies) showed cardioprotection by the administration of EPO.

3. That on April 4, 2003, the provisional application S/N 60/460,684 to the above-identified patent application, entitled "Method of Treating Cardiac Ischemia by Using Erythropoietin," was filed in the U.S. Patent and Trademark Office.
4. We further hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true, and further, that these statements are made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of this application or any patent issued thereon.

Date: 8-4-2005 By: J.E. Baker
John E. Baker, Ph.D.

Date: 8-4-2005 By: Yang Shi
Yang Shi, Ph.D.